



January 27, 2004

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## HOUSE BILL No. 1302

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DIGEST OF HB 1302 (Updated January 22, 2004 12:55 pm - DI 105)

**Citations Affected:** IC 33-19; noncode.

**Synopsis:** Service fees. Provides for the collection of a \$10 service fee in small claims and civil actions. (The introduced version of this bill was prepared by the commission on courts.)

**Effective:** July 1, 2004; July 1, 2005.

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**Richardson, Dvorak**

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January 15, 2004, read first time and referred to Committee on Courts and Criminal Code.  
January 26, 2004, reported — Do Pass; referred to Committee on Ways and Means pursuant to Rule 127.

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HB 1302—LS 6374/DI 105+



January 27, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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## HOUSE BILL No. 1302



A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 33-19-5-4, AS AMENDED BY P.L.1-2002,
- 2 SECTION 136, IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) For each civil action except:
- 4 (1) proceedings to enforce a statute defining an infraction under
- 5 IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- 6 (2) proceedings to enforce an ordinance under IC 34-28-5-4 (or
- 7 IC 34-4-32-4 before its repeal);
- 8 (3) proceedings in juvenile court under IC 31-34 or IC 31-37;
- 9 (4) proceedings in paternity under IC 31-14;
- 10 (5) proceedings in small claims court under IC 33-11.6; and
- 11 (6) proceedings in actions under section 6 of this chapter;
- 12 the clerk shall collect from the party filing the action a civil costs fee
- 13 of one hundred dollars (\$100).
- 14 (b) In addition to the civil costs fee collected under this section, the
- 15 clerk shall collect the following fees if they are required under
- 16 IC 33-19-6:
- 17 (1) A document fee.

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1 (2) A support and maintenance fee.  
 2 (3) A document storage fee (IC 33-19-6-18.1).  
 3 (4) An automated record keeping fee (IC 33-19-6-19).  
 4 **(5) A service fee (IC 33-19-6-23).**  
 5 SECTION 2. IC 33-19-5-5, AS AMENDED BY P.L.167-2003,  
 6 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2005]: Sec. 5. (a) For each small claims action the clerk shall  
 8 collect from the party filing the action a:  
 9 (1) small claims costs fee of thirty-five dollars (\$35); and  
 10 (2) small claims service fee of ~~five dollars (\$5)~~ **ten dollars (\$10)**  
 11 for each defendant named or added in the small claims action.  
 12 However, a clerk may not collect a small claims costs fee or small  
 13 claims service fee for a small claims action filed by or on behalf of the  
 14 attorney general.  
 15 (b) In addition to a small claims costs fee and small claims service  
 16 fee collected under this section, the clerk shall collect the following  
 17 fees if they are required under IC 33-19-6:  
 18 (1) A document fee.  
 19 (2) A document storage fee (IC 33-19-6-18.1).  
 20 (3) An automated record keeping fee (IC 33-19-6-19).  
 21 SECTION 3. IC 33-19-6-23 IS ADDED TO THE INDIANA CODE  
 22 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
 23 1, 2004]: **Sec. 23. (a) This section applies to a civil action described**  
 24 **in IC 33-19-5-4(a).**  
 25 **(b) The clerk shall collect from the party filing the civil action**  
 26 **a service fee of ten dollars (\$10) for each defendant named or**  
 27 **added in the civil action.**  
 28 SECTION 4. IC 33-19-7-1, AS AMENDED BY P.L.167-2003,  
 29 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2005]: Sec. 1. (a) The clerk of a circuit court shall  
 31 semiannually distribute to the auditor of state as the state share for  
 32 deposit in the state general fund seventy percent (70%) of the amount  
 33 of fees collected under the following:  
 34 (1) IC 33-19-5-1(a) (criminal costs fees).  
 35 (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).  
 36 (3) IC 33-19-5-3(a) (juvenile costs fees).  
 37 (4) IC 33-19-5-4(a) (civil costs fees).  
 38 (5) IC 33-19-5-5(a)(1) (small claims costs fees).  
 39 (6) IC 33-19-5-6(a) (probate costs fees).  
 40 (7) IC 33-19-6-16.2 (deferred prosecution fees).  
 41 (b) The clerk of a circuit court shall semiannually distribute to the  
 42 auditor of state for deposit in the state user fee fund established under

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1 IC 33-19-9-2 the following:

2 (1) Twenty-five percent (25%) of the drug abuse, prosecution,

3 interdiction, and correction fees collected under

4 IC 33-19-5-1(b)(5).

5 (2) Twenty-five percent (25%) of the alcohol and drug

6 countermeasures fees collected under IC 33-19-5-1(b)(6),

7 IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

8 (3) Fifty percent (50%) of the child abuse prevention fees

9 collected under IC 33-19-5-1(b)(7).

10 (4) One hundred percent (100%) of the domestic violence

11 prevention and treatment fees collected under IC 33-19-5-1(b)(8).

12 (5) One hundred percent (100%) of the highway work zone fees

13 collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).

14 (6) One hundred percent (100%) of the safe schools fee collected

15 under IC 33-19-6-16.3.

16 (7) One hundred percent (100%) of the automated record keeping

17 fee (IC 33-19-6-19).

18 (c) The clerk of a circuit court shall monthly distribute to the county

19 auditor the following:

20 (1) Seventy-five percent (75%) of the drug abuse, prosecution,

21 interdiction, and correction fees collected under

22 IC 33-19-5-1(b)(5).

23 (2) Seventy-five percent (75%) of the alcohol and drug

24 countermeasures fees collected under IC 33-19-5-1(b)(6),

25 IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

26 The county auditor shall deposit fees distributed by a clerk under this

27 subsection into the county drug free community fund established under

28 IC 5-2-11.

29 (d) The clerk of a circuit court shall monthly distribute to the county

30 auditor fifty percent (50%) of the child abuse prevention fees collected

31 under IC 33-19-5-1(b)(7). The county auditor shall deposit fees

32 distributed by a clerk under this subsection into the county child

33 advocacy fund established under IC 12-17-17.

34 (e) The clerk of a circuit court shall monthly distribute to the county

35 auditor one hundred percent (100%) of the late payment fees collected

36 under IC 33-19-6-20. The county auditor shall deposit fees distributed

37 by a clerk under this subsection as follows:

38 (1) If directed to do so by an ordinance adopted by the county

39 fiscal body, the county auditor shall deposit forty percent (40%)

40 of the fees in the clerk's record perpetuation fund established

41 under IC 33-19-6-1.5 and sixty percent (60%) of the fees in the

42 county general fund.

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1 (2) If the county fiscal body has not adopted an ordinance under  
2 subdivision (1), the county auditor shall deposit all the fees in the  
3 county general fund.

4 (f) The clerk of the circuit court shall semiannually distribute to the  
5 auditor of state for deposit in the sexual assault victims assistance fund  
6 established under IC 16-19-13-6 one hundred percent (100%) of the  
7 sexual assault victims assistance fees collected under IC 33-19-6-21.

8 (g) The clerk of a circuit court shall monthly distribute to the county  
9 auditor the following:

10 (1) One hundred percent (100%) of the support and maintenance  
11 fees for cases designated as non-Title IV-D child support cases in  
12 the Indiana support enforcement tracking system (ISETS)  
13 collected under IC 33-19-6-5.

14 (2) The percentage share of the support and maintenance fees for  
15 cases designated as IV-D child support cases in ISETS collected  
16 under IC 33-19-6-5 that is reimbursable to the county at the  
17 federal financial participation rate.

18 The county clerk shall monthly distribute to the office of the secretary  
19 of family and social services the percentage share of the support and  
20 maintenance fees for cases designated as Title IV-D child support cases  
21 in ISETS collected under IC 33-19-6-5 that is not reimbursable to the  
22 county at the applicable federal financial participation rate.

23 (h) The clerk of a circuit court shall monthly distribute to the county  
24 auditor one hundred percent (100%) of the small claims service fee  
25 under IC 33-19-5-5(a)(2) for deposit in the county general fund.

26 **(i) The clerk shall distribute monthly to the county auditor or**  
27 **the city or town fiscal officer one hundred percent (100%) of the**  
28 **service fee under IC 33-19-6-23 for deposit in the county general**  
29 **fund or the city or town general fund.**

30 SECTION 5. [EFFECTIVE JULY 1, 2004] (a) **In addition to the**  
31 **collection required by IC 33-19-5-5(a), as in effect July 1, 2004, the**  
32 **clerk shall collect a small claims service fee of ten dollars (\$10) for**  
33 **each defendant named or added in a small claims action.**

34 (b) **In addition to the distribution required by IC 33-19-7-1(i),**  
35 **as in effect July 1, 2004, the clerk shall distribute monthly to the**  
36 **county auditor or city or town fiscal officer one hundred percent**  
37 **(100%) of the service fee under IC 33-19-6-23 for deposit in the**  
38 **county general fund or the city or town general fund.**

39 (c) **This SECTION expires June 30, 2005.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1302, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 7, nays 1.

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